




RAVALLI COUNTY ATTORNEY

205 Bedford Street, Suite C, HAMILTON, MT 59840-2853
Phone (406) 375-6750 Fax (406) 375-6731

TO: JoAnne Johnson, Treasurer
CC: Commissioners ✓
FROM: Alex Beal, Deputy 
DATE: August 9, 2007

RECEIVED

AUG 09 2007

Ravalli County Commissioners

--	--	--	--	--

RE: Various Property Tax Questions

When we met on August 8, 2007, you asked for clarification of various tax collection and tax sale procedures which I am attempting to clarify with this memo. This was not an area I was overly familiar with, so I appreciate the opportunity to learn about it. It is possible that this is therefore not quite what you were looking for. In the event that I have left you with a less clear picture than when we started, please do not hesitate to call, and I will try to do better.

While I will note that the legislature seems to revise these statutes regularly, they have not done much to make them understandable or user-friendly. Some digging has lead me to answers, however. "A taxpayer may pay current year taxes without paying delinquent taxes. The county treasurer shall accept a partial payment equal to the delinquent taxes, including penalty and interest, for one or more full tax years if taxes for both halves of the current tax year have been paid. Payment of taxes for delinquent taxes must be applied to the taxes that have been delinquent the longest. The payment of taxes for the current tax year is not a redemption of the property tax lien for any delinquent tax year." MCA § 15-16-102 (5)(a). This is a bit too subtly written, and says more than it appears to at first. In fact, a taxpayer must pay the current year's taxes before you may accept payment for delinquent taxes. However, once current taxes are paid, payments must be applied to the oldest delinquent taxes. In other words, if someone's taxes are 4 years backdated, they must pay 2007, then 2004, then 2005, then 2006. The use of the phrase "partial payment" is also misleading. It does not mean a partial year's payment, but rather an amount less than the total amount owed. Once taxes become delinquent, you may only accept them a year's worth at a time. This is only a "partial" payment in the sense that if you owe three year's worth, it is ok to pay only a single year.

If proper notification is not given to a taxpayer, that property may not be sold during that year's tax sale. MCA § 15-17-122 (6). In order to purchase a property at a tax sale, all delinquent taxes, penalties, interest, and costs must be received. MCA § 15-17-212(1). If no person pays the delinquent taxes, including penalties, interest, and costs, the county is considered to be the purchaser.

MCA § 15-17-214 (1). That lien that the county acquires by being the "purchaser" must be assigned by the county upon full payment. MCA § 15-17-214 (3). In other words, the only time that there is an assignment is when the county was the original "purchaser" of the tax lien. If any other person or entity purchases the lien, there is no need for an assignment, because the county never owned the lien. In other words, it is impossible to purchase a lien without an assignment. If the person bought the lien at the tax sale, there would never have been an assignment, because as the original purchaser, there was no one to assign the interest to. If the person bought the lien from the county, the purchase is the assignment. I suppose if the person merely wanted to pay off the lien for the owner, and have no ability to enforce the lien, they could do so on behalf of the taxpayer, and thus there would be no "assignment," as the lien would disappear.

If a purchaser does not make payment before 10 a.m. on the next business day following the purchase at the tax sale, the property must be made available again for purchase, but if the purchase was on the last day of the tax sale, the county becomes the "purchaser." MCA § 15-17-321. Liens "purchased" by the county but later sold are done by assignment. Pursuant to MCA § 15-17-323, that process requires that proof of mail service of the standard assignment form (or one containing all the same information) be given, and that all costs be paid. As you are aware, that statute spells out the rest of the very technical requirements.

You have not asked any questions regarding redemption, so I have ended my analysis here.

As an aside, MCA § 15-16-701 requires you to provide the Commissioners, on the first Monday of June, a list of personal property taxes that are not a lien on real estate and that have been delinquent for 5 years or more. The list is supposed to be submitted in triplicate. While not explained statutorily, my assumption is that this is one copy per commissioner. While not statutorily obligated, preparing the list in quintuplicate (if that is the word for 5 copies) would probably be the best policy.